

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

William M. Cruz

v.

Civil No. 13-fp-68

State of New Hampshire

O R D E R

Petitioner William M. Cruz has filed a "Motion Requesting Guidance for a Continuation of Case # 06-S-1808-09" (doc. no. 1), which has been docketed as a petition for a writ of habeas corpus. In the motion, Cruz states that he intends to file a habeas petition in this court challenging his 2007 state court conviction and/or sentence that was affirmed in June 2008 by the New Hampshire Supreme Court. Cruz seeks leave to pursue a habeas action that, Cruz concedes, might otherwise be barred by the statute of limitations.

Pursuant to Rule 2(c) of the Rules Governing Section 2254 Cases in the United States District Courts ("§ 2254 Rules"), a habeas petition must, among other things, "specify all the grounds for relief available to the petitioner," "state the facts supporting each ground," and "state the relief requested." § 2254 Rule 2(c)(1)-(3). At this time, Cruz's petition contains no specific claims for relief and nothing in the pleading allows the court to discern or infer any federal claim in the petition.

Cruz seeks an advance ruling as to whether a petition filed in this court would be deemed untimely. However, Cruz has not yet filed a proper petition for a writ of habeas corpus. Accordingly, the court will grant Cruz leave to file an amended petition that complies with the requirements of § 2254 Rule 2 and 28 U.S.C. § 2254(b) (requiring petitioner to demonstrate exhaustion of available state court remedies).

Cruz is directed, within thirty days of the date of this order, to file an amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 that includes:

1. A statement of the claims Cruz seeks to pursue in this action, including the factual basis for the claim;
2. Documentation, including notices of appeal, briefs, and any state court orders, included in the New Hampshire Supreme Court docket, showing that Cruz has exhausted his state court remedies on his claims; and
3. Facts demonstrating why the statute of limitations should be tolled and the late-filed petition be considered.

SO ORDERED.



Landya McCafferty
United States Magistrate Judge

February 19, 2013
cc: William M. Cruz, pro se

LBM:jba